

CHARITABLE GAMING DIVISION

NEBRASKA COUNTY AND CITY LOTTERY ACT



NEBRASKA DEPARTMENT OF REVENUE

AUGUST 2003

ARTICLE 6
COUNTY AND CITY LOTTERIES

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9-601. Act, how cited. Sections 9-601 to 9-653 shall be known and may be cited as the Nebraska County and City Lottery Act.

Source: Laws 1986, LB 1027, § 172; Laws 1989, LB 767, § 47; Laws 1991, LB 427, § 54; Laws 1991, LB 795, § 4; Laws 1993, LB 563, § 2; Laws 2002, LB 545, § 44.

Operative date: July 20, 2002.

9-602. Purpose of act. The purpose of the Nebraska County and City Lottery Act is to allow any county, city, or village to conduct a lottery for community betterment purposes. Any lottery conducted by a county, city, or village shall be conducted only by those methods and under those circumstances prescribed in the act. No other form or method shall be authorized or allowed.

Source: Laws 1986, LB 1027, § 173.

9-603. Definitions, where found. For purposes of the Nebraska County and City Lottery Act, the definitions found in sections 9-603.02 to 9-618 shall be used.

Source: Laws 1986, LB 1027, § 174; Laws 1989, LB 767, § 48; Laws 2002, LB 545, § 45; Laws 2003, LB 3, § 4.

Effective date: August 31, 2003.

9-603.01. Transferred to section 9-603.03.

9-603.02. Authorized representative, defined. Authorized representative shall mean any person designated by the county, city, or village or a joint entity created by the county, city, or village by entering into an agreement pursuant to the Interlocal Cooperation Act to examine, sign, and approve a lottery worker license application for submission to the department.

Source: Laws 2002, LB 545, § 46.

Operative date: July 20, 2002.

9-603.03. Cancel, defined. Cancel shall mean to discontinue all rights and privileges to hold a license for up to three years.

Source: Laws 1989, LB 767, § 49; R.S. 1943, (1997), § 9-603.01; Laws 2003, LB 3, § 5.

Effective date: August 31, 2003.

9-604. Community betterment purposes, defined. (1) Community betterment purposes shall mean (a) benefitting persons by enhancing their opportunity for educational advancement, by relieving or protecting them from disease, suffering, or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, by providing them with opportunities to contribute to the betterment of the community, or by increasing their comprehension of and devotion to the principles upon which this nation was founded, (b) initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures, (c) lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people, or (d) providing tax relief for the community.

(2) Community betterment purposes shall not include any activity consisting of an attempt to influence legislation or participate in any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

Source: Laws 1986, LB 1027, § 175; Laws 1991, LB 427, § 55.

9-604.01. Department, defined. Department shall mean the Department of Revenue.

Source: Laws 1989, LB 767, § 50.

9-605. Expenses, defined. Expenses shall mean (1) all costs associated with the purchasing, printing, or manufacturing of any items to be used or distributed in the lottery, (2) all office or clerical expenses in connection with the lottery, (3) all promotional expenses for the lottery, (4) all salaries of persons employed to operate, conduct, or supervise the lottery, (5) any rental or lease expense related to the lottery, (6) any fee or commission paid to any person associated with the lottery, (7) license fees paid to the department, and (8) any other costs associated with the conduct of a lottery by a county, city, or village. Expenses shall not include taxes paid pursuant to section 9-648 or prizes awarded to participants.

Source: Laws 1986, LB 1027, § 176; Laws 1989, LB 767, § 51.

9-605.01. Governing official, defined. Governing official shall mean the chief executive officer of a county, city, village or any other elected or appointed official, including a governing board member, who has any decisionmaking responsibility regarding the conduct of the lottery.

Source: Laws 2002, LB 545, § 47.

Operative date: July 20, 2002.

9-606. Gross proceeds, defined. Gross proceeds shall mean the total aggregate receipts received from the conduct of any lottery conducted by any county, city, or village without any reduction for prizes, discounts, taxes, or expenses and shall include receipts from admission costs, any consideration necessary for participation, and the value of any free tickets, games, or plays used.

Source: Laws 1986, LB 1027, § 177.

9-606.01. License, defined. License shall mean a license issued to any county, city, or village to conduct a lottery for community betterment purposes, any license issued to any lottery operator, any license issued to any manufacturer-distributor, any license issued to any authorized sales outlet location, and any license issued to any lottery worker.

Source: Laws 1989, LB 767, § 52; Laws 1993, LB 563, § 3; Laws 2002, LB 545, § 50.

Operative date: July 20, 2002.

9-606.02. Keno manager, defined. Keno manager shall mean the shift manager, supervisor, or person in charge of the daily operation of a keno game at a location.

Source: Laws 2002, LB 545 § 48.

Operative date: July 20, 2002.

9-607. Lottery, defined; manner of play; designation. (1) Lottery shall mean a gambling scheme in which: (a) the players pay or agree to pay something of value for an opportunity to win; (b) winning opportunities are represented by tickets; (c) winners are solely determined by one of the following two methods: (i) by a random drawing of tickets differentiated by sequential enumeration from a receptacle by hand whereby each ticket has an equal chance of being chosen in the drawing; or (ii) by use of a game known as keno in which a player selects up to twenty numbers from a total of eighty numbers on a paper ticket and a computer, other electronic selection device, or electrically operated blower machine which is not player-activated randomly selects up to twenty numbers from the same pool of eighty numbers and the winning players are determined by the correct matching of the numbers on the paper ticket selected by the players with the numbers randomly selected by the computer, other electronic selection device, or electrically operated blower machine, except that no keno game shall permit or require player access or activation of lottery equipment and the random selection of numbers by the computer, other electronic selection device, or electrically operated blower machine shall not occur within five minutes of the completion of the previous selection of random numbers; and (d) the holders of the winning paper tickets are to receive cash or prizes redeemable for cash. Selection of a winner or winners shall be predicated solely on chance.

(2) Lottery shall not include: (a) any gambling scheme which uses any mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value, or tickets or stubs redeemable for something of value; (b) any activity authorized or regulated under the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, section 9-701, or Chapter 2, article 12; or (c) any activity prohibited under Chapter 28, article 11.

(3) Notwithstanding the requirement in subdivision (1)(c)(ii) of this section that a player select up to twenty numbers, a player may select more than twenty numbers on a paper ticket when a top or bottom, left or right, edge, or way ticket is played. For a top or bottom ticket, the player shall select all numbers from one through forty or all numbers from forty-one through eighty. For a left or right ticket, the player shall select all numbers ending in one through five or all numbers ending in six through zero. For an edge ticket, the player shall select all of the numbers comprising the outside edge of the ticket. For a way ticket, the player shall select a combination of groups of numbers in multiple ways on a single ticket.

(4) A county, city, or village conducting a keno lottery shall designate the method of winning number selection to be used in the lottery and submit such designation in writing to the department prior to conducting a keno lottery. Only those methods of winning number selection described in subdivision (1)(c)(ii) of this section shall be permitted, and the method of winning number selection initially utilized may only be changed once during that business day as set forth in the designation. A county, city, or village shall not change the method or methods of winning number selection filed with the department or allow it to be changed once such initial designation has been made unless (a) otherwise authorized in writing by the department based upon a written request from the county, city, or village or (b) an emergency arises in which case a ball draw method of number selection would be switched to a number selection by a random number generator. An emergency situation shall be reported by the county, city, or village to the department within twenty-four hours of its occurrence.

Source: Laws 1986, LB 1027, § 178; Laws 1989, LB 767, § 53; Laws 1991, LB 795, § 7; Laws 1991, LB 849, § 56; Laws 1993, LB 563, § 4; Laws 1993, LB 138, § 14.

Cross References:

Nebraska Bingo Act, see section 9-201. **Nebraska Lottery and Raffle Act**, see section 9-401. **Nebraska Pickle Card Lottery Act**, see section 9-301.

Nebraska Small Lottery and Raffle Act, see section 9-501. **State Lottery Act**, see section 9-801.

9-608. Transferred to section 9-625.

9-609. Transferred to section 9-629.

9-610. Transferred to section 9-648.

9-611. Transferred to section 9-651.

9-612. Transferred to section 9-619.

9-613. Lottery equipment, defined. Lottery equipment shall mean all proprietary devices, machines, and parts used in the manufacture or maintenance of equipment which is used in and is an integral part of the conduct of any lottery activity authorized or regulated under the Nebraska County and City Lottery Act.

Source: Laws 1989, LB 767, § 54.

9-614. Lottery operator, defined. Lottery operator shall mean any individual, sole proprietorship, partnership, limited liability company, or corporation which operates a lottery on behalf of a county, city, or village.

A lottery operator shall be a resident of Nebraska or, if a partnership, limited liability company, or corporation, shall be organized under the laws of this state as a partnership, formed under the Limited Liability Company Act, or incorporated under the Business Corporation Act.

Source: Laws 1989, LB 767, § 55; Laws 1990, LB 1055, § 6; Laws 1993, LB 121, § 114; Laws 1995, LB 109, § 194.

Cross References:

Limited Liability Company Act, see section 21-2601.

Nebraska Business Corporation Act, see section 21-2001.

9-615. Lottery supplies, defined. Lottery supplies shall mean all tickets, cards, boards, sheets, or other supplies which are used in and are an integral part of the conduct of any lottery activity authorized or regulated under the Nebraska County and City Lottery Act.

Source: Laws 1989, LB 767, § 56.

9-615.01. Lottery worker, defined. Lottery worker shall mean any person who performs work directly related to the conduct of a lottery, including, but not limited to, ticket writing, winning number selection, winning number verification, prize payment to winners, record keeping, shift checkout and review of keno writer banks, and security.

Source: Laws 2002, LB 545, § 49.

Operative date: July 20, 2002.

9-616. Manufacturer-distributor, defined. Manufacturer-distributor shall mean any individual, sole proprietorship, partnership, limited liability company, or corporation which assembles, produces, makes, prints, or supplies lottery equipment or supplies for sale, use, or distribution in this state.

Source: Laws 1989, LB 767, § 57; Laws 1993, LB 121, § 115.

9-617. Revoke, defined. Revoke shall mean to permanently void and recall all rights and privileges to obtain or hold a license.

Source: Laws 1989, LB 767, § 58.

9-618. Suspend, defined. Suspend shall mean to cause a temporary interruption of all rights and privileges of a license or renewal thereof.

Source: Laws 1989, LB 767, § 59.

9-619. Regulation of lotteries; department; duty. The department shall regulate lotteries conducted by counties, cities, and villages to insure fairness, equity, and uniformity.

Source: Laws 1986, LB 1027, § 183; R.S. 1943, (1987), § 9-612; Laws 1989, LB 767, § 91.

9-620. Department; powers, functions, and duties. The department shall have the following powers, functions, and duties:

(1) To issue licenses and temporary licenses.

(2) To deny any license application or renewal application for cause. Cause for denial of an application or renewal of a license shall include instances in which the applicant individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the applicant or licensee other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such applicant or licensee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 1, subchapter D of the Internal Revenue Code from such applicant or licensee for past or present services in a consulting capacity or otherwise, the licensee, or any person with a substantial interest in the applicant or licensee: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card

Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to such acts; (b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of such acts or any rules or regulations adopted and promulgated pursuant to such acts; (c) Obtained a license or permit pursuant to such acts by fraud, misrepresentation, or concealment; (d) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level; (e) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subdivision (d) of this subdivision within the ten years preceding the filing of the application; (f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity required to be licensed under the Nebraska County and City Lottery Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation; (g) Made a misrepresentation of or failed to disclose a material fact to the department; (h) Failed to prove by clear and convincing evidence his, her, or its qualifications to be licensed in accordance with the Nebraska County and City Lottery Act; (i) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967; (j) Failed to pay an administrative fine levied pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act; (k) Failed to demonstrate good character, honesty, and integrity; (l) Failed to demonstrate, either individually or in the case of a business entity through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to establish or maintain the activity for which the application is made; or (m) Was cited and whose liquor license was suspended, canceled, revoked by the Nebraska Liquor Control Commission for illegal gambling activities that occurred on or after July 20, 2002, on or about a premise licensed by the commission pursuant to the Nebraska Liquor Control Act or the rules and regulations adopted and promulgated pursuant to such act.

No renewal of a license under the Nebraska County and City Lottery Act shall be issued when the applicant for renewal would not be eligible for a license upon a first application.

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include instances in which the licensee individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the licensee other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such licensee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 1, subchapter D of the Internal Revenue Code from such licensee for past or present services in a consulting capacity or otherwise, or any person with a substantial interest in the licensee: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to such acts; (b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the Nebraska County and City Lottery Act or any rules or regulations adopted and promulgated pursuant to the act; (c) Obtained a license pursuant to the Nebraska County and City Lottery Act by fraud, misrepresentation, or concealment; (d) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level; (e) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subdivision (d) of this subdivision within the ten years preceding the filing of the application; (f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity required to be licensed under the Nebraska County and City Lottery Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation; (g) Made a misrepresentation of or failed to disclose a material fact to the department; (h) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967; (i) Failed to pay an administrative fine levied pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act; (j) Failed to demonstrate good character, honesty, and integrity; (k) Failed to demonstrate, either individually or in the case of a business entity through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to maintain the activity for which the license was issued; or (l) Was cited and whose liquor license was suspended, canceled, revoked by the Nebraska Liquor Control Commission for illegal gambling activities that occurred on or after July 20, 2002, on or about a premise licensed by the commission pursuant to the Nebraska Liquor Control Act or the rules and regulations adopted and promulgated pursuant to such act;

(4) To issue an order requiring a licensee or other person to cease and desist from violations of the Nebraska County and City Lottery Act or any rules or regulations adopted and promulgated to the act. The order shall give reasonable notice of the rights of the licensee or other person to request a hearing and shall state the reason for the entry of the order. The notice of order shall be mailed by certified mail to or personally served upon the licensee or other person. If the notice of order is mailed by certified mail, the date the notice is mailed shall be deemed to be the date of service of notice to the licensee or other person. A request for a hearing by the licensee or other person shall be in writing and shall be filed with the department within thirty days after the service of the cease and desist order. If a request for hearing is not filed within the thirty-day period, the cease and desist order shall become permanent at the expiration of

such period. A hearing shall be held not later than thirty days after the request for the hearing is received by the Tax Commissioner, and within twenty days after the date of the hearing, the Tax Commissioner shall issue an order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be held in accordance with the rules and regulations adopted and promulgated by the department. If the licensee or other person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the licensee or other person shall be deemed in default and the proceeding may be determined against the licensee or other person upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(5) To levy an administrative fine on an individual, partnership, limited liability company, corporation, or organization for cause. For purposes of this subdivision, cause shall include instances in which the individual, partnership, limited liability company, corporation, or organization violated the provisions, requirements, conditions, limitations, or duties imposed by the act or any rule or regulation adopted and promulgated pursuant to the act. In determining whether to levy an administrative fine and the amount of the fine if any fine is levied, the department shall take into consideration the seriousness of the violation, the intent of the violator, whether the violator voluntarily reported the violation, whether the violator derived financial gain as a result of the violation and the extent thereof, and whether the violator has had previous violations of the act and regulations. A fine levied on a violator under this section shall not exceed twenty-five thousand dollars for each violation of the act or any rules and regulations adopted and promulgated pursuant to the act plus the financial benefit derived by the violator as a result of each violation. If an administrative fine is levied, the fine shall not be paid from lottery gross proceeds of the county, city, or village and shall be remitted by the violator to the department within thirty days from the date of the order issued by the department levying such fine;

(6) To enter or to authorize any law enforcement officer to enter at any time upon any premises where lottery activity required to be licensed under the act is being conducted to determine whether any of the provisions of the act or any rules or regulations adopted and promulgated under it have been or are being violated and at such time to examine such premises;

(7) To require periodic reports of lottery activity from licensed counties, cities, villages, manufacturer-distributors, and lottery operators and any other persons, organizations, limited liability companies, or corporations as the department deems necessary to carry out the act;

(8) To audit, examine, or cause to have examined, by any agent or representative designated by the department for such purpose, any books, papers, records, or memoranda relating to the conduct of a lottery, to require by administrative order or summons the production of such documents or the attendance of any person having knowledge in the premises, to take testimony under oath, and to require proof material for its information. If any such person willfully refuses to make documents available for examination by the department or its agent or representative or willfully fails to attend and testify, the department may apply to a judge of the district court of the county in which such person resides for an order directing such person to comply with the department's request. If any documents requested by the department are in the custody of a corporation, the court order may be directed to any principal officer of the corporation. If the documents requested by the department are in the custody of a limited liability company, the court order may be directed to any member when management is reserved to the members or otherwise to any manager. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

(9) Unless specifically provided otherwise, to compute, determine, assess, and collect the amounts required to be paid as taxes imposed by the act in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967;

(10) To collect license application and license renewal application fees imposed by the Nebraska County and City Lottery Act and to prorate license fees on an annual basis. The department shall establish by rule and regulation the conditions and circumstances under which such fees may be prorated;

(11) To confiscate and seize lottery equipment or supplies pursuant to section 9-649;

(12) To investigate the activities of any person applying for a license under the act or relating to the conduct of any lottery activity under the act. Any license applicant or licensee shall produce such information, documentation, and assurances as may be required by the department to establish by a preponderance of the evidence the financial stability, integrity, and responsibility of the applicant or licensee, including, but not limited to, bank account references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, business entity and personal accounting records, and check records and ledgers. Any such license applicant or licensee shall authorize the department to examine bank accounts and other such records as may be deemed necessary by the department;

(13) To adopt and promulgate such rules and regulations and prescribe all forms as are necessary to carry out the act; and

(14) To employ staff, including auditors and inspectors, as necessary to carry out the act.

Source: Laws 1989, LB 767, § 60; Laws 1991, LB 427, § 56; Laws 1991, LB 849, § 57; Laws 1993, LB 563, § 5; Laws 1993, LB 138, § 15; Laws 1994, LB 884, § 17; Laws 1995, LB 344, § 29; Laws 1995, LB 574, § 12; Laws 1997, LB 248, § 28; Laws 2000, LB 1086, § 23; Laws 2002, LB 545, § 51; Laws 2002, LB 1126, § 4.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB 545, section 51, with LB 1126, section 4, to reflect all amendments.

Note: The changes made by LB 1126 became effective July 20, 2002. The changes made by LB 545 became operative July 20, 2002.

Cross References:

Nebraska Bingo Act, see section 9-201.

Nebraska Lottery and Raffle Act, see section 9-401.

Nebraska Pickle Card Lottery Act, see section 9-301.

Nebraska Revenue Act of 1967, see section 77-2701.

Nebraska Small Lottery and Raffle Act, see section 9-501.

State Lottery Act, see section 9-801.

9-621. Administrative fines; collection. (1) All money collected by the department as an administrative fine shall be remitted on a monthly basis to the State Treasurer for credit to the permanent school fund.

(2) Any administrative fine levied under section 9-620 and unpaid shall constitute a debt to the State of Nebraska which may be collected by lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property.

Source: Laws 1989, LB 767, § 61; Laws 1993, LB 563, § 6.

9-622. Application; denial; hearing. (1) Before any application is denied pursuant to section 9-620, the department shall notify the applicant in writing by certified mail of the department's intention to deny the application and the reasons for the denial. Such notice shall inform the applicant of his or her right to request an administrative hearing for the purpose of reconsideration of the intended denial of the application. The date the notice is mailed shall be deemed to be the date of service of notice to the applicant.

(2) A request for a hearing by the applicant shall be in writing and shall be filed with the department within thirty days after the service of notice to the applicant of the department's intended denial of the application. If a request for hearing is not filed within the thirty-day period, the application denial shall become final at the expiration of such period.

(3) If a request for hearing is filed within the thirty-day period, the Tax Commissioner shall grant the applicant a hearing and shall, at least ten days before the hearing, serve notice upon the applicant by certified mail, return receipt requested, of the time, date, and place of the hearing. Such proceedings shall be considered contested cases pursuant to the Administrative Procedure Act.

Source: Laws 1989, LB 767, § 62; Laws 2002, LB 545, § 52.

Operative date: July 20, 2002.

Cross Reference:

Administrative Procedure Act, see section 84-920.

9-623. Hearing; required; when; notice. Before the adoption, amendment, or repeal of any rule or regulation, the suspension, revocation, or cancellation of any license pursuant to section 9-620, or the levying of an administrative fine pursuant to such section, the department shall set the matter for hearing. Such suspension, revocation, or cancellation proceedings or proceedings to levy an administrative fine shall be contested cases pursuant to the Administrative Procedure Act.

At least ten days before the hearing, the department shall (1) in the case of suspension, revocation, or cancellation proceedings or proceedings to levy an administrative fine, serve notice upon the licensee or violator by personal service or certified mail, return receipt requested, of the time, date, and place of any hearing or (2) in the case of adoption, amendment, or repeal of any rule or regulation, issue a public notice of the time, date, and place of such hearing.

Source: Laws 1989, LB 767, § 63; Laws 1991, LB 427, § 57; Laws 1993, LB 563, § 7; Laws 1995, LB 344, § 30.

Effective date: September 9, 1995.

Cross Reference:

Administrative Procedure Act, see section 84-920.

9-624. Proceeding before department; service; decision; appeal. (1) A copy of the order or decision of the department in any proceeding before it pursuant to the Nebraska County and City Lottery Act shall be served upon each party of record to the proceeding before the department. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the department shall enter his or her appearance and indicate to the department his or her address for the service of a copy of any order, decision, or notice. The mailing of any copy of any order or decision or of any notice in the proceeding, to such party at such address, shall be deemed to be service upon such party.

(2) Any decision of the department in any proceeding before it pursuant to the act may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1989, LB 767, § 64.

Cross Reference:

Administrative Procedure Act, see section 84-920.

9-625. Lotteries; established by political subdivision; election; approval required; joint lottery. Any county, city, or village may establish and conduct a lottery if an election is first held pursuant to this section. Only one scheme or type of lottery may be conducted by a county, city, or village at one time. No county, city, or village shall establish and conduct a lottery until such course of action has been approved by a majority of the registered voters of such county, city, or village casting ballots on the issue at a regular election or a special election called by the governing board of the county, city, or village for such purpose. This section shall not be construed to prohibit any county, city, or village from conducting a lottery if such course of action was approved prior to July 17, 1986, by a majority of the registered voters of such county, city, or village casting ballots on the issue.

Any lottery established pursuant to this section which is authorized by an election held on or after October 1, 1989, pursuant to this section that is not in operation for any ten consecutive years shall no longer be authorized under this section. If the voters in a county, city, or village approve a lottery on or after October 1, 1989, pursuant to this section but the lottery does not actually begin operation within ten years of the date that the results of the election are certified, the lottery shall no longer be authorized under this section. Any lottery no longer authorized under this section because it did not operate within the ten-year period provided in this section may be

reauthorized by a majority vote of the registered voters of the county, city, or village casting ballots on the issue at a subsequent election pursuant to this section.

Except for any restriction imposed pursuant to section 9-643, any county, city, or village may conduct a lottery only within the boundaries of such county, city, or village, or within a licensed racetrack enclosure which abuts the corporate limits thereof or which is within the zoning jurisdiction of a city, except that nothing in this section shall prohibit a county, city, or village from entering into an agreement pursuant to the Interlocal Cooperation Act to conduct a joint lottery with another county, city, or village which has established a lottery in accordance with this section.

If any county, city, or village is conducting a lottery at the time it is consolidated into a municipal county and such county, city, or village is abolished as of the date of creation of the municipal county, the municipal county shall be subject to the same rights and obligations with respect to such lottery or lotteries as the counties, cities, and villages which were abolished, including any rights or obligations under lottery contracts of such counties, cities, and villages. Such lottery shall continue to be subject to all other provisions of the Nebraska County and City Lottery Act, except that such lottery shall not be expanded to any new location in any area of the municipal county where such lottery was not previously authorized before the consolidation unless such expansion has been approved by a majority of the registered voters of such municipal county voting at a regular election or a special election called by the governing board of the municipal county for such purpose.

Source: Laws 1977, LB 38, § 232; Laws 1983, LB 259, § 62; Laws 1984, LB 949, § 75; R.S. 1943, (1985), § 28-1116; Laws 1986, LB 1027, § 179; R.S. 1943, (1987), § 9-608; Laws 1989, LB 767, § 65; Laws 1995, LB 344, § 31; Laws 2001, LB 142, § 20; Laws 2002, LB 545 § 53.

Operative date: July 20, 2002.

Cross Reference:

Interlocal Cooperation Act, see section 13-801.

9-626. Election; form; restrictions. (1) A governing board of a county, city, or village may submit to the registered voters of such county, city, or village the question whether an existing lottery should be continued. The question may be submitted at a regular election or a special election called by the governing board of the county, city, or village for such purpose.

(2) The question shall be submitted in substantially the following form:

Shall the (county, city, or village) of (here insert the name of the county, city, or village) continue operating a lottery pursuant to the Nebraska County and City Lottery Act?

___ For continued operation of lottery

___ Against continued operation of lottery

(3) A majority of the voters voting on the issue shall determine such issue. The vote shall be binding on the affected county, city, or village, and if the majority vote is to discontinue the lottery, such county, city, or village shall discontinue the lottery within sixty days of the certification of the election results.

(4) An election pursuant to this section shall not be held within two years of the election authorized under section 9-625 and shall not be held more often than once every two years.

(5) An election held by a county, city, or village pursuant to section 9-625 shall not be held within two years of an election authorized under this section and section 9-627 if such election results in the discontinuation of the lottery in the county, city, or village.

Source: Laws 1989, LB 767, § 66.

9-627. Continuation of lottery; petition; election. (1) The registered voters of any county, city, or village shall have the right to vote on the question of whether an existing lottery should be continued. The question shall be submitted to such voters whenever petitions calling for its submission, signed by at least twenty percent of the number of persons voting in the county, city, or village at the last preceding general election, are presented to the governing board of the county, city, or village.

(2) Upon receipt of the petitions provided under subsection (1) of this section, it shall be the duty of the governing board to submit the question at a special election to be held not less than thirty nor more than forty-five days after receipt of the petitions, except that if any other election is to be held in such county, city, or village within ninety days of receipt of the petitions, the governing board may provide for the holding of the lottery election on the same day.

(3) The governing board shall give notice of the submission of the question of whether an existing lottery should be continued, not more than twenty days nor less than ten days prior to the election, by publication one time in one or more newspapers published in or of general circulation in the county, city, or village in which such question is to be submitted. Such notice shall be in addition to any other notice required under the general election laws of this state.

(4) The question shall be submitted to the registered voters in the form provided in subsection (2) of section 9-626.

(5) A majority of the voters voting on the issue shall determine such issue. The vote shall be binding on the affected county, city, or village, and if the majority vote is to discontinue the lottery, such county, city, or village shall discontinue the lottery within sixty days of the certification of the election results.

Source: Laws 1989, LB 767, § 67.

9-628. Contract; termination provision required. On and after October 1, 1989, any contract entered into by a county, city, or village relating to the conduct of a lottery shall include a provision permitting the county, city, or village to terminate the contract by giving thirty days' notice to the other party if such lottery has been discontinued by an election authorized under section 9-626 or 9-627.

Source: Laws 1989, LB 767, § 68.

9-629. Gross proceeds; use; audit and legal expenses, defined. (1) The gross proceeds of any lottery conducted by a county, city, or village shall be used solely for community betterment purposes, awarding of prizes, taxes, and expenses.

(2) Not less than sixty-five percent of the gross proceeds shall be used for the awarding of prizes, except that for purposes of conducting a lottery authorized by subdivision (1)(c)(ii) of section 9-607, not less than sixty-five percent of the gross proceeds during an annual period from July 1 to June 30 of each year shall be used for the awarding of prizes.

(3) Not more than fourteen percent of the gross proceeds shall be used to pay the expenses of operating the lottery, except that license fees paid to the department and audit or legal expenses incurred by the county, city, or village which relate directly to the conduct of operating such lottery need not be included in determining the fourteen-percent limitation on expenses.

(4) For purposes of this section, audit and legal expenses shall include all expenses relating to: (a) The governmental organization of the lottery; (b) government maintenance, monitoring, and examination of lottery records; and (c) enforcement, regulatory, administrative, investigative, and litigation functions undertaken by government, but shall not include the expenses of the actual conduct of the game. Audit and legal expenses during an annual period from July 1 to June 30 of each year in excess of one percent of gross proceeds or five thousand dollars, whichever is greater, shall be subject to the fourteen-percent limitation on expenses under subsection (3) of this section. In the case of a joint lottery conducted pursuant to an interlocal agreement as provided for in section 9-625, the combined gross proceeds of the joint lottery shall be used to determine that portion of audit and legal expenses that are not subject to the fourteen-percent limitation on expenses.

Source: Laws 1983, LB 259, § 41; R.S. 1943, (1985), § 28-1116.01; Laws 1986, LB 1027, § 180; R.S. 1943, (1987), § 9-609; Laws 1989, LB 767, § 69; Laws 1991, LB 795, § 8; Laws 1991, LB 849, § 58; Laws 1993, LB 138, § 16; Laws 1994, LB 694, § 109; Laws 1995, LB 344, § 32.

Effective date: September 9, 1995.

9-629.01. Gross proceeds; use; professional baseball organization. As authorized in section 19-4701, a city of the metropolitan or primary class or a county in which a city of the metropolitan class is located which conducts a lottery pursuant to the Nebraska County and City Lottery Act may use a portion of the gross proceeds from such lottery for the acquisition, purchase, and maintenance of a professional baseball organization.

Source: Laws 1991, LB 795, § 5.

9-629.02. Repealed. Laws 1995, LB 344, § 36.

Effective date: September 9, 1995.

9-630. Conduct of lottery; license required; application; contents; enumerated; duty to keep current. (1) No county, city, village, or lottery operator shall conduct a lottery without having first been issued a license by the department. An applicant for such license shall apply on a form prescribed by the department.

(2) Each application by any county, city, or village shall include: (a) The name and address of the applicant; (b) A certified copy of the election results at which the lottery was approved by a majority of the registered voters of the county, city, or village in the manner prescribed in section 9-625; (c) Any approval by ordinance or resolution approved by a governing board of a county, city, or village sanctioning the conduct of a lottery; (d) The names, addresses, and dates of birth of each person employed by the county, city, or village to conduct the lottery; (e) The name and address of at least one person employed by the county, city, or village who shall represent the county, city, or village in all matters with the department regarding the conduct of the lottery; (f) A written statement describing the type of lottery to be conducted by the county, city, or village; (g) If the county, city, or village enters into a written agreement with a lottery operator, a copy of the proposed contract or written agreement between the county, city, or village and the chosen lottery operator; and (h) Any other information which the department deems necessary.

(3) Each application by any lottery operator shall include: (a) The name, address, social security number, and date of birth of every individual who is the lottery operator, the sole proprietor, a partner, a member, or a corporate officer of the lottery operator, or a person or entity holding in the aggregate ten percent or more of the debt or equity of the lottery operator if a corporation; (b) The name and state identification number of the county, city, or village on whose behalf a lottery will be conducted; (c) A statement signed by an authorized representative of the county, city, or village signifying that such county, city, or village approves the applicant to act as a lottery operator on behalf of such county, city, or village; and (d) Any other information which the department deems necessary.

A separate license shall be obtained by a lottery operator for each county, city, or village on whose behalf a lottery will be conducted.

(4) The information required by this section shall be kept current. A county, city, village, or lottery operator shall notify the department within thirty days of any changes in the information originally submitted in the application form.

(5) The department may prescribe a separate application form for renewal purposes.

Source: Laws 1989, LB 767, § 70; Laws 1991, LB 427, § 58; Laws 1993, LB 121, § 116; Laws 1993, LB 563, § 8; Laws 1997, LB 248, § 29.

Operative date: October 1, 1997.

9-631. License to conduct lottery; renewal; fee. (1) All licenses issued to any county, city, or village to conduct a lottery and licenses issued to any lottery operator or any authorized sales outlet location shall expire on May 31 of every even-numbered year, or such other date as the department may prescribe by rule and regulation, and may be renewed biennially. All licenses issued to any lottery worker shall expire on May 31 of every odd-numbered year, or such other date as the department may prescribe by rule and regulation, and may be renewed biennially. Applications for renewal of a county, city, or village license, a lottery operator license, an authorized

sales outlet location license, or a lottery worker license shall be submitted to the department at least sixty days prior to the expiration date of the license.

(2) A biennial license fee of one hundred dollars shall be charged for each license issued to any county, city, or village to conduct a lottery. A biennial license fee of five hundred dollars shall be charged for each license issued to a lottery operator. No license fee shall be charged for an authorized sales outlet location or a lottery worker license.

Source: Laws 1989, LB 767, § 71; Laws 1991, LB 427, § 59; Laws 1993, LB 563, § 9; Laws 2002, LB 545, § 54.

Operative date: July 20, 2002.

9-631.01. Lottery workers; application; contents; duty to keep current; investigation; probationary license; regular license. (1) No person shall be a lottery worker unless a lottery worker license application has been filed with the department. The application shall be on a form prescribed by the department and shall include: (a) The name, address, date of birth, and social security number of the applicant; (b) The name and state identification number of the county, city, or village, lottery operator, and sales outlet location or locations for which the applicant will be performing work; (c) A description of the applicant's duties; (d) A statement that the applicant has not been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony within ten years preceding the date of the application or any felony or misdemeanor involving fraud, theft, or any gambling activity, willful failure to make required payments or reports, or filing false reports to a governmental agency at any level; (e) The date of signing and the signature of the applicant, under penalty of perjury, verifying that the information is true and accurate; (f) A statement signed by a governing official of the county, city, or village or the authorized representative signifying that such county, city, or village or authorized representative has examined the completed application and approved the application for submission to the department; and (g) Any other information which the department deems necessary.

(2) The applicant shall complete and forward the application to the county, city, or village or authorized representative. Upon receipt of the completed application the governing official of the county, city, or village or the authorized representative shall examine the application and, if the governing official of the county, city, or village or the authorized representative approves the application for submission to the department, shall sign and file the application with the department. If the application is approved by an authorized representative, a copy of the application or the information contained in the application shall be filed with the county, city, or village.

(3) The department and the county, city, or village shall have the right to conduct an investigation concerning the applicant as may be necessary or appropriate to maintain the integrity of the game.

(4) The information required by this section shall be kept current, and a new application shall be filed with the department if any information on the application is no longer correct. A county, city, village, or lottery operator shall notify the department if the person to whom the license was originally issued is no longer working for such county, city, village, or lottery operator.

(5) Falsification of information on the application by the applicant shall disqualify such applicant being a lottery worker in addition to any other penalties which may be imposed under the laws of this state.

(6) The applicant shall be granted a probationary license as a lottery worker which shall be valid for a period of one hundred twenty days after the application is filed with the department unless such application is denied by the department. An application shall be considered filed with the department upon receipt by the department or as of the date postmarked or transmitted by electronic facsimile to the department if the application is received by the department within ten days after the date postmarked or electronically transmitted. An application postmarked or electronically transmitted but not received by the department after ten days shall not be considered filed. If proceedings to deny the license application pursuant to section 9-622 have not been initiated by the department during such probationary period, the applicant shall be granted a regular lottery worker license. The license shall be valid to allow such person to perform work for the county, city, village, lottery operator, or sales outlet location or locations unless otherwise suspended, canceled, revoked, or denied by the department or unless the license otherwise becomes invalid upon notification by the county, city, village, or lottery operator that the person to whom the license was originally issued is no longer working for such county, city, village, or lottery operator.

(7) An applicant may obtain a license as a lottery worker for more than one county, city, or village conducting a lottery pursuant to the Nebraska County and City Lottery Act if a separate application has been filed for such applicant with respect to each such county, city, or village.

(8) A lottery worker license is nontransferable and shall no longer be valid if a person is no longer employed as a lottery worker by the county, city, or village for which the lottery worker license was obtained.

(9) A person holding a license as a lottery worker under the Nebraska County and City Lottery Act shall not be connected with or interested in, directly or indirectly, any individual, sole proprietorship, partnership, limited liability company, corporation, or other party licensed as a distributor, manufacturer, or manufacturer-distributor under section 9-255.07, 9-255.09, 9-330, 9-332, or 9-632.

Source: Laws 1993, LB 563, § 10; Laws 1997, LB 248, § 30; Laws 2002, LB 545, § 55.

Operative date: July 20, 2002.

Cross References:

9-632. Manufacturer-distributor; license required; application; fee; expiration; renewal. (1) No individual, sole proprietorship, partnership, limited liability company, or corporation shall manufacture, sell, print, or distribute lottery equipment or supplies for use or play in this state without having first been issued a manufacturer-distributor license by the department.

(2) The department shall charge a biennial license fee of one thousand five hundred twenty-five dollars for the issuance or renewal of a manufacturer-distributor license. The department shall remit the proceeds from such license fees to the State Treasurer for credit to the Charitable Gaming Operations Fund. All manufacturer-distributor licenses may be renewed biennially. The biennial expiration date shall be September 30 of every odd-numbered year or such other date as the department may prescribe by rule and regulation. An application for license renewal shall be submitted to the department at least forty-five days prior to the expiration date of the license.

(3) An applicant for issuance or renewal of a manufacturer-distributor license shall apply for a license on a form prescribed by the department. The application form shall include: (a) The name and address of the applicant and the name and address of each of its separate locations manufacturing or distributing lottery equipment or supplies; (b) The name and home address of all owners or members of the manufacturer-distributor business if the business is not a corporation. If the business is a corporation, the name and home address of each of the officers and directors of the corporation and of each stockholder owning ten percent or more of any class of stock in the corporation shall be supplied; (c) If the applicant is an individual, the applicant's social security number; (d) If the applicant is a foreign manufacturer-distributor, the full name, business address, and home address of the agent who is a resident of this state designated pursuant to section 9-633; and (e) Such other information as the department deems necessary.

(4) The applicant shall notify the department within thirty days of any change in the information submitted on or with the application form. The applicant shall comply with all applicable laws of the United States and the State of Nebraska and all applicable rules and regulations of the department.

(5) Any person licensed as a manufacturer pursuant to section 9-255.09 or 9-332 or as a distributor pursuant to section 9-255.07 or 9-330 or may act as a manufacturer-distributor pursuant to this section upon the filing of the proper application form and payment of a biennial license fee of one thousand five hundred twenty-five dollars.

Source: Laws 1989, LB 767, § 72; Laws 1991, LB 427, § 60; Laws 1993, LB 121, § 117; Laws 1993, LB 563, § 11; Laws 1994, LB 694, § 110; Laws 1997, LB 752, § 69.

Effective date: September 13, 1997.

9-633. Manufacturer-distributor; resident agent; when required. Each manufacturer-distributor selling lottery equipment or supplies in this state that is not a resident of this state or is not a corporation shall designate a natural person who is a resident of and living in this state and is nineteen years of age or older as a resident agent for the purpose of receipt and acceptance of service of process and other communications on behalf of the manufacturer-distributor. The name, business address where service of process and delivery of mail can be made, and home address of such agent shall be filed with the department.

Source: Laws 1989, LB 767, § 73.

9-634. Manufacturer-distributor; lottery supplies; approval required. Each manufacturer-distributor shall receive departmental approval of lottery supplies prior to offering or marketing in this state any type of lottery supplies for use in a lottery conducted pursuant to the Nebraska County and City Lottery Act. Approval by the department shall be based upon, but not be limited to, conformance with specifications imposed by the department regarding the manufacture, assembly, and packaging of lottery supplies, the provisions of the act, and any other specifications imposed by rule or regulation adopted and promulgated pursuant to the act.

Source: Laws 1989, LB 767, § 74.

9-635. Manufacturer-distributor; lottery equipment; approval required; costs of examination. (1) Each manufacturer-distributor shall receive departmental approval of lottery equipment prior to offering or marketing in this state any type of lottery equipment for use in a lottery conducted pursuant to the Nebraska County and City Lottery Act. Approval by the department shall be based upon, but not be limited to, conformance with the provisions of the act and any other specifications imposed by rule or regulation adopted and promulgated pursuant to the act.

(2) Lottery equipment shall not be submitted for approval by the department until the manufacturer-distributor has obtained a license as required in section 9-632.

(3) The department may require a manufacturer-distributor seeking approval of any lottery equipment to pay the anticipated actual costs of the examination of the equipment by the department. If required, such costs shall be paid in advance by the manufacturer-distributor. After completion of the examination, the department shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(4) Lottery equipment which does not conform in all respects to the requirements of the act and any other specifications imposed by the department by rule and regulation shall be contraband goods for purposes of section 9-649.

Source: Laws 1989, LB 767, § 75.

9-636. Lottery supplies; requirements. (1) All lottery supplies shall be constructed to conform in all respects to the provisions and specifications imposed by the Nebraska County and City Lottery Act and the rules and regulations adopted and promulgated pursuant to the act as to the manufacture, assembly, printing, and packaging of lottery supplies.

(2) Any lottery supplies which do not conform in all respects to the requirements of the act and any other specifications imposed by the department by rule and regulation shall be contraband goods for purposes of section 9-649.

Source: Laws 1989, LB 767, § 76; Laws 1993, LB 563, § 12.

9-637. Ticket; purchase price limitation. No ticket used in the conduct of any lottery shall have an individual purchase price in excess of one hundred dollars.

Source: Laws 1989, LB 767, § 77.

9-638. Manufacturer-distributor; information requirements. Each manufacturer-distributor shall maintain the following information: (1) The name of each purchaser of lottery equipment or supplies; (2) relative to each sale, the quantity and type of lottery equipment or supplies sold; and (3) any other information concerning lottery equipment or supplies sold which the department deems necessary. Such information shall be made available to the department upon request.

Source: Laws 1989, LB 767, § 78; Laws 1997, LB 248, § 31.

Operative date: October 1, 1997.

9-639. Manufacturer-distributor; employee, agent, or spouse; restriction on activities. No manufacturer-distributor shall be licensed to conduct any other activity under the Nebraska County and City Lottery Act. No manufacturer-distributor shall hold a license to conduct any other kind of gambling activity which is authorized or regulated under Chapter 9 except as provided in section 9-632. No manufacturer-distributor or employee, agent, or spouse of any manufacturer-distributor shall play in any lottery conducted by any county, city, or village or participate in the conduct or operation of any lottery conducted by any county, city, or village or any other kind of gambling activity which is authorized or regulated under Chapter 9 except to the exclusive extent of his or her statutory duties as a licensed manufacturer-distributor and as provided in sections 9-255.07, 9-255.09, 9-330, and 9-332.

Source: Laws 1989, LB 767, § 79; Laws 1991, LB 427, § 61; Laws 1993, LB 563, § 13; Laws 1994, LB 694, § 111.

Operative date: October 1, 1994.

9-640. Lottery equipment or supplies sales and leases; restrictions. (1) No manufacturer-distributor shall sell, lease, or otherwise provide any lottery equipment or supplies to any person in Nebraska except a county, city, or village licensed to conduct a lottery, a licensed lottery operator, or another licensed manufacturer-distributor. No county, city, or village licensed to conduct a lottery or a licensed lottery operator shall purchase, lease, or otherwise obtain any lottery equipment or supplies except from a manufacturer-distributor licensed in Nebraska.

(2) Nothing in this section shall prohibit (a) licensed county, city, village, or lottery operator which has purchased or intends to purchase new lottery equipment from selling or donating its old lottery equipment to another licensed county, city, village, or lottery operator if prior written approval has been obtained from the department or (b) a county, city, village, or lottery operator which has voluntarily canceled its license or allowed its license to lapse or which has had its license suspended, canceled, or revoked from selling or donating its lottery equipment to another licensed county, city, village, or lottery operator if prior written approval has been obtained from the department.

Source: Laws 1989, LB 767, § 80; Laws 1991, LB 427, § 62.

9-641. Manufacturer-distributor; records required. Every licensed manufacturer-distributor shall keep and maintain a complete set of records which shall include all details of all activities of the licensee related to the conduct of the licensed activity as may be required by the department, including the total quantity and types of lottery equipment or supplies sold to any county, city, or village, to any licensed lottery operator, and to other licensed manufacturer-distributors. Such records shall be available for inspection by the department. The records shall be maintained for a period of not less than three years from the date of the end of the licensee's fiscal year.

Source: Laws 1989, LB 767, § 81.

9-642. Lottery operator; conflict of interest prohibited. (1) No sole proprietor, partner in a partnership, member in a limited liability company, officer or director of a corporation, or individual with a substantial interest in a sole proprietorship, partnership, limited liability company, or corporation applying for a lottery operator license or licensed as a lottery operator shall be connected with or interested in, directly or indirectly, any person, partnership, limited liability company, firm, corporation, or other party licensed as a distributor, manufacturer, or manufacturer-distributor under section 9-255.07, 9-255.09, 9-330, 9-332, or 9-632.

(2) No member of the governing board or governing official of a county, city, or village shall be connected with or interested in, directly or indirectly, any lottery operator with whom the county, city, or village contracts to conduct its lottery or any manufacturer-distributor.

Source: Laws 1989, LB 767, § 82; Laws 1991, LB 427, § 63; Laws 1993, LB 121, § 118; Laws 1993, LB 563, § 14; Laws 1994, LB 694, § 112; Laws 1994, LB 884, § 18.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB 694, section 112, with LB 884, section 18, to reflect all amendments.

Note: The changes made by LB 884, section 18, became effective April 5, 1994. The changes made by LB 694, section 112, became operative October 1, 1994.

9-642.01. Sales outlet location; qualification standards; notice to department; license; application; renewal. (1) Prior to a county, city, village, or lottery operator conducting a lottery at a location other than the location of the lottery operator (a) the county, city, or village shall, by ordinance or resolution, establish qualification standards which shall be met by any individual, sole proprietorship, partnership, limited liability company, or corporation seeking to have its location qualify as an authorized sales outlet

location for conducting a lottery and (b) the county, city, or village shall approve or disapprove each sales outlet location and individual, sole proprietorship, partnership, limited liability company, or corporation which desires to conduct the lottery at its sales outlet location solely on the basis of the qualification standards. A copy of the ordinance or resolution setting forth the qualification standards shall be filed with the department within thirty days of its adoption. A county, city, or village shall notify the department of all approved lottery locations within thirty days of approval.

(2) An authorized sales outlet location shall obtain a license issued by the department prior to conducting any lottery activity at such location pursuant to the Nebraska County and City Lottery Act. An applicant for a license as an authorized sales outlet location shall apply on a form prescribed by the department containing the information the department deems necessary, including documentation that reflects that the location has been approved by the county, city, or village in accordance with the qualification standards required by this section. If the applicant is an individual, the application shall include the applicant's social security number.

(3) The information required by this section shall be kept current and a new application shall be filed with the department if any information on the application is no longer correct.

Source: Laws 1991, LB 427, § 64; Laws 1993, LB 121, § 119; Laws 1993, LB 563, § 15; Laws 1997, LB 752, § 70; Laws 2002, LB 545, § 56.

Operative date: July 20, 2002.

9-643. Lottery; local control; construction of section. (1) Any county, city, or village may, by resolution or ordinance, tax, regulate, control, or prohibit any lottery conducted pursuant to the Nebraska County and City Lottery Act within the boundaries of such county, city, or village, except that no county may impose a tax or otherwise regulate, control, or prohibit any lottery within the corporate limits of a city or village. Any tax imposed pursuant to this subsection shall be remitted to the general fund of the county, city, or village imposing such tax.

(2) Nothing in this section shall be construed to authorize any lottery not otherwise authorized under Nebraska law.

Source: Laws 1989, LB 767, § 83; Laws 1993, LB 563, § 16.

9-644. Local control; annexation, effect. If a city or village which has exercised its authority under section 9-643 to prohibit lotteries within its boundaries annexes any area in which a lottery is being lawfully conducted by a county, the county may continue the lottery for a period not to exceed the shorter of (1) the remainder of the term of the county's agreement with the lottery operator or (2) two years. The lottery shall be subject to all taxes, regulations, and controls imposed by the city or village under such section, whether imposed before or after annexation.

Source: Laws 1989, LB 767, § 84.

9-645. Licensees; exempt from Uniform Disposition of Unclaimed Property Act. Any county, city, or village licensed to conduct a lottery pursuant to the Nebraska County and City Lottery Act shall be exempt from the Uniform Disposition of Unclaimed Property Act solely with respect to unclaimed lottery prizes.

Source: Laws 1989, LB 767, § 85.

Cross Reference:

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

9-646. Participation; restrictions. (1) No person under nineteen years of age shall play or participate in any way in any lottery conducted pursuant to the Nebraska County and City Lottery Act.

(2) A county, city, or village which authorizes the conduct of a lottery shall establish by ordinance or resolution the limitations, if any, on the playing of any lottery conducted by the county, city, or village by any member of the governing board, a governing official, or the immediate family of such member or official.

(3) No owner or officer of a lottery operator with whom the county, city, or village contracts to conduct its lottery shall play any lottery conducted by such county, city, or village. An owner or officer of an authorized sales outlet location for such county, city, or village may be prohibited from playing any lottery conducted by such county, city, or village by ordinance or resolution. No employee or agent of a county, city, village, lottery operator, or authorized sales outlet location shall play the lottery of the county, city, or village for which he or she performs work during such time as he or she is actually working at such lottery or while on duty.

(4) No person or licensee, or employee or agent thereof, shall knowingly permit an individual under nineteen years of age to play or participate in any way in any lottery conducted pursuant to the Nebraska County and City Lottery Act.

Source: Laws 1989, LB 767, § 86; Laws 1991, LB 427, § 65; Laws 1993, LB 563, § 17; Laws 1997, LB 248, § 32.

Operative date: October 1, 1997.

9-646.01. No extension of credit. No person or licensee, or any employee or agent thereof, accepting wagers on a lottery conducted pursuant to the Nebraska County and City Lottery Act shall extend credit from the gross proceeds of a lottery to participants in the lottery for the purchase of lottery tickets. No person shall purchase or be allowed to purchase any lottery ticket or make or be allowed to make any wager pursuant to the act unless he or she pays for such ticket or wager with cash. For purposes of this section, cash shall mean United States currency having the same face value as the price of the ticket or wager.

Source: Laws 1993, LB 563, § 18; Laws 1997, LB 248, § 33.

Operative date: October 1, 1997.

9-647. Lottery; time limitation. No lottery shall be conducted between the hours of 1:00 a.m. and 6:00 a.m.

Source: Laws 1989, LB 767, § 94.

9-648. Lottery; tax; collection. Any county, city, or village which conducts a lottery shall submit to the department on a quarterly basis a tax of two percent of the gross proceeds. Such tax shall be remitted not later than thirty days from the close of the preceding quarter on forms provided by the department. The department shall remit the tax to the State Treasurer for credit to the Charitable Gaming Operations Fund. All deficiencies of the tax imposed by this section shall accrue interest and be subject to a penalty as provided for sales and use taxes in the Nebraska Revenue Act of 1967.

Source: Laws 1986, LB 1027, § 181; R.S. 1943, (1987), § 9-610; Laws 1989, LB 767, § 87; Laws 1993, LB 563, § 19.

Cross Reference:

Nebraska Revenue Act of 1967, see section 77-2701.

9-649. Tax Commissioner; power to seize contraband; effect. (1) The Tax Commissioner or his or her agents or employees, at the direction of the Tax Commissioner, or any peace officer of this state may seize, without a warrant, the following contraband goods found any place in this state: (a) Any lottery equipment or supplies which do not conform in all respects to the requirements of the Nebraska County and City Lottery Act and any other specifications imposed by the department by rule and regulation; (b) any lottery equipment or supplies that are being sold without the proper license; (c) any lottery equipment or supplies that have been sold in violation of the act or any rule or regulation adopted and promulgated pursuant to the act; or (d) any lottery equipment or supplies used in connection with any lottery that has been or is being conducted in violation of the act or any rule or regulation adopted and promulgated pursuant to the act.

(2) The Tax Commissioner may, upon satisfactory proof, direct the return of any seized lottery equipment or supplies when he or she has reason to believe that the owner has not willfully or intentionally failed to comply with the act.

(3) The Tax Commissioner may, upon finding that an owner of contraband goods has willfully or intentionally failed to comply with the act, confiscate such goods. Any lottery equipment or supplies confiscated shall be destroyed.

(4) The seizure of contraband goods under this section shall not relieve any person from a fine, imprisonment, or other penalty for violation of the act.

(5) The Tax Commissioner or his or her agents or employees, when directed to do so by the Tax Commissioner, or any peace officer of this state shall not be responsible for negligence in any court for the seizure or confiscation of any lottery equipment or supplies pursuant to this section.

Source: Laws 1989, LB 767, § 88; Laws 1991, LB 427, § 66.

9-650. Segregation of gross proceeds; use of interest; records; requirements. The gross proceeds of any lottery, less the amount awarded in prizes and any salary, fee, or commission paid to a licensed lottery operator plus any interest on such funds, shall be segregated from any other revenue and placed in a separate account of the lottery operator and the county, city, or village. If a lottery operator is conducting a lottery on behalf of a county, city, or village, such proceeds, including any interest, shall be transferred from the lottery operator's separate account to a separate account of the county, city, or village. Any interest received by a county, city, or village from the proceeds of the lottery shall be used solely for community betterment purposes. Separate records shall be maintained by such licensed county, city, or village. Records required by the Nebraska County and City Lottery Act shall be preserved for at least three years unless otherwise provided by rules and regulations adopted and promulgated by the department. Any law enforcement agency or other agency of government shall have the authority to investigate the records relating to lotteries and gross proceeds from such lottery at any time. Any county, city, or village shall, upon proper written request, deliver all such records to the department or other law enforcement agency for investigation.

Source: Laws 1989, LB 767, § 89; Laws 1991, LB 427, § 67; Laws 1993, LB 563, § 20.

9-651. Lottery ticket; requirements. Each county, city, or village conducting a lottery shall have its name clearly printed on each ticket used in the lottery. No such ticket shall be sold unless the name is printed thereon.

Source: Laws 1986, LB 1027, § 182; R.S. 1943, (1987), § 9-611; Laws 1989, LB 767, § 90.

9-652. Violations; penalties; enforcement; venue. (1) Except when another penalty is specifically provided, any person or licensee, or employee or agent thereof, who knowingly or intentionally violates any provision of the Nebraska County and City Lottery Act, or who causes, aids, abets, or conspires with another to cause any person or licensee or any employee or agent thereof to violate the act, shall be guilty of a Class I misdemeanor for the first offense and a Class IV felony for any second or subsequent violation. Any licensee guilty of violating the act more than once in a twelve-month period may have its license canceled or revoked.

(2) Each of the following violations of the act shall be a Class IV felony: (a) Giving, providing, or offering to give or provide, directly or indirectly, to any public official, employee, or agent of this state or any agencies or political subdivisions of this state any compensation or reward or share of the money for property paid or received through gambling activities regulated under the act in consideration for obtaining any license, authorization, permission, or privilege to participate in any gaming operations except as authorized under the act or any rules and regulations adopted and promulgated pursuant to such act; (b) Intentionally employing or possessing any device to facilitate cheating in any lottery or using any fraudulent scheme or technique in connection with any lottery

when the amount gained or intended to be gained through the use of such device, scheme, or technique is three hundred dollars or more; (c) Knowingly filing a false report under the act; or (d) Knowingly falsifying or making any false entry in any books or records with respect to any transaction connected with the conduct of a lottery.

(3) It shall be the duty of the Attorney General or appropriate county attorney to prosecute and defend all proceedings initiated in any court or otherwise under the act.

(4) The failure to do any act required by or under the Nebraska County and City Lottery Act shall be deemed an act in part in the principal office of the department. Any prosecution under such act may be conducted in any county where the defendant resides or has a place of business or in any county in which any violation occurred.

(5) In the enforcement and investigation of any offense committed under the act, the department may call to its aid any sheriff, deputy sheriff, or other peace officer in the state.

Source: Laws 1989, LB 767, § 92; Laws 1993, LB 563, § 21; Laws 1995, LB 344, § 33; Laws 1997, LB 248, § 34.

Operative date: October 1, 1997.

9-653. Reports and records; disclosure; limitations; violation; penalty. (1) Except in accordance with a proper judicial order or as otherwise provided by this section or other law, it shall be a Class I misdemeanor for the Tax Commissioner or any employee or agent of the Tax Commissioner to make known, in any manner whatsoever, the contents of any reports or records submitted by a licensed manufacturer-distributor or the contents of any personal history reports submitted by any licensee or license applicant to the department pursuant to the Nebraska County and City Lottery Act and any rules and regulations adopted and promulgated pursuant to the act.

(2) Nothing in this section shall be construed to prohibit (a) the delivery to a licensee, his or her duly authorized representative, or his or her successors, receivers, trustees, personal representatives, administrators, assignees, or guarantors, if directly interested, of a certified copy of any report or record, (b) the publication of statistics so classified as to prevent the identification of particular reports or records, (c) the inspection by the Attorney General, a county attorney, or other legal representative of the state of reports or records submitted by a licensed manufacturer-distributor when information on the reports or records is considered by the Attorney General, county attorney, or other legal representative to be relevant to any action or proceeding instituted by the licensee or against whom an action or proceeding is being considered or has been commenced by any state agency or county, (d) the furnishing of any information to the United States Government or to states allowing similar privileges to the Tax Commissioner, (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner for the collection of delinquent taxes under the act, (f) the publication or disclosure of final administrative opinions and orders made by the Tax Commissioner in the adjudication of license denials, suspensions, cancellations, or revocations or the levying of fines, (g) the release of any application, without the contents of any submitted personal history report or social security number, filed with the department to obtain a license to conduct activities under the act, which application shall be deemed a public record, (h) the release of any report filed by a licensed county, city, village, or lottery operator pursuant to the act, which report shall be deemed a public record, or (i) the notification of an applicant, a licensee, or a licensee's duly authorized representative of the existence of and the grounds for any administrative action to deny the license application of, to revoke, cancel, or suspend the license of, or to levy an administrative fine upon any agent or employee of the applicant, the licensee, or any other person upon whom the applicant or licensee relies to conduct activities authorized by the act.

(3) Nothing in this section shall prohibit the Tax Commissioner or any employee or agent of the Tax Commissioner from making known the names of persons, firms, or corporations licensed to conduct activities under the act, the locations at which such activities are conducted by licensees, or the dates on which such licenses were issued.

(4) Notwithstanding subsection (1) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect reports or records submitted by a licensed manufacturer-distributor pursuant to the act when information on the reports or records is relevant to any action or proceeding instituted or being considered by the United States Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

(5) Notwithstanding subsection (1) of this section, the Tax Commissioner may permit the other tax officials of this state to inspect reports or records submitted pursuant to the act, but such inspection shall be permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by the rules and regulations of the Tax Commissioner.

Source: Laws 1989, LB 767, § 93; Laws 1991, LB 427, § 68; Laws 1993, LB 563, § 22; Laws 1995, LB 344, § 34; Laws 2002, LB 545, § 57.

Operative date: July 20, 2002.